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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
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Filing Date: March 6, 2023) Case No.: PSH-23-0064
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Issued: May 17, 2023

Administrative Judge Decision

Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy’s (DOE) regulations, set forth at 10 C.F.R. Part 710, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should not be granted.

I. Background

The Individual is seeking employment with a DOE Contractor in a position that requires him to hold an access authorization. As part of the processing of his clearance, the Individual was required to complete a Questionnaire for National Security Positions (QNSP), which he completed and submitted in August 2022. Exhibit (Ex.) 4. As part of the investigation process, the Individual underwent an Enhanced Subject Interview (ESI) conducted by an investigator in September 2022. Ex. 6. Based on the information provided, the Local Security Office (LSO) asked the Individual to complete two Letters of Interrogatory (LOI), which he signed and submitted in October 2022 and November 2022. Exs. 7, 8, 9, and 10.

Due to unresolved security concerns, the LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E (Personal Conduct) and F

¹ The regulations define access authorization as “an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

(Financial Concerns) of the Adjudicative Guidelines. Ex. 1. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf. *See* Transcript of Hearing, Case No. PSH-23-0064 (hereinafter cited as "Tr."). He also submitted twenty-eight exhibits, marked as Exhibits A through BB. The DOE Counsel submitted eleven exhibits marked as Exhibits 1 through 11.

II. Notification Letter and the Associated Concerns

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE raised security concerns under Guidelines E and F of the Adjudicative Guidelines. Ex. 1.

A. Guideline E

Under Guideline E, "[c]onduct involving questionable judgement, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 15. The "[r]efusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to . . . completing security forms" and the "[r]efusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination[]" may raise concerns regarding "an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." *Id.* at ¶ 15(a) and (b). Of particular concern is the "[d]eliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations" or "determine national security eligibility or trustworthiness." *Id.* at ¶ 16(a). "Deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an . . . investigator" is also of particular concern. *Id.* at ¶ 16(b).

With respect to Guideline E, the LSO alleged that the Individual failed to disclose "relevant facts and provided false or misleading information on his [QNSP]" and to an investigator or security official. Ex. 2 at 4. Specifically, the Individual indicated in the November 2022 LOI that he "never had any major financial debts that have caused him concern" until the COVID-19 pandemic. *Id.* However, the Individual was given a letter of caution by an adjudicatory arm of a branch of the armed services in September 2008, indicating that his security clearance would be reconsidered if he did not address his delinquent debts. *Id.* The LSO also alleged that the Individual stated in his November 2022 LOI that he received no such letter of caution and that the Individual failed to disclose five delinquent accounts totaling approximately \$37,310 in his QNSP. *Id.* at 4–5. The LSO indicated that the Individual disclosed his delinquent mortgage during the ESI after being prompted by the investigator and that the Individual "stated that he did not disclose the accounts [on his QNSP] because he misread the question and had overlooked a couple of the accounts." *Id.*

at 4. Lastly, the LSO alleged that the 2008 letter of caution informed the Individual that the Individual failed to disclose some delinquent accounts and cautioned him that “he is responsible for ensuring any future personnel security questionnaires are complete and accurate prior to their submission.” *Id.* at 4. Based on the foregoing, the LSO’s invocation of Guideline E is justified.

B. Guideline F

Guideline F provides that failure to live within one’s means, satisfy debts, and meet financial obligations “may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 18. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are an “[i]nability to satisfy debts[.]” an “[u]nwillingness to satisfy debts regardless of the ability to do so[.]” and “[a] history of not meeting financial obligations[.]” *Id.* at ¶ 19(a)–(b).

With respect to Guideline F, the LSO alleged that a credit report from August 2022 revealed that the Individual has five delinquent accounts totaling approximately \$37,310. Ex. 2 at 1–2. The LSO also alleged that the Individual indicated that his car loan was delinquent in the amount of approximately \$1,200 in the October 2022 LOI and that he stated that he was waiting to satisfy his delinquent car payments with severance pay and a bonus he expected to receive from his employer, which he revealed to be in the amount of \$17,500 in the November 2022 LOI. *Id.* He stated in the November 2022 LOI he had not yet resolved the matter of the delinquent car loan. *Id.* at 2–3. The LSO also alleged that the Personal Finance Statement (PFS) the Individual submitted with the October 2022 LOI indicated “a net monthly deficit of approximately \$1,638.97” and that the Individual and his spouse were unemployed at the time the October 2022 LOI was submitted. *Id.* at 3. The Individual indicated in the November 2022 LOI that he was receiving unemployment compensation, which was left out of the PFS computation, and further, the Individual “ha[d] not used any of his unemployment funds or his bonus to resolve any of his debts.” *Id.* Finally, the LSO alleged that the Individual did not disclose whether his spouse was receiving unemployment compensation and that the annual income the Individual was previously earning was not enough to “keep his bills paid after his spouse lost her job.” *Id.* Based on the foregoing, the LSO’s invocation of Guideline F is justified.

III. Regulatory Standards

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact and Hearing Testimony

The Individual, a veteran,² was issued a letter of caution in September 2008 from an adjudicatory arm of one of the branches of the armed services at the time he was in active service. Ex. 11; Tr. at 23–28; Exs. B, D, M. The Individual was notified in the letter of caution that, although he was found eligible for a security clearance,³ an examination of a copy of his credit report revealed that the Individual failed to disclose several delinquent accounts on the personnel security questionnaire. Ex. 11. The letter instructed the Individual to seek assistance from a financial counselor, as the “[f]ailure to address [his] delinquent debts will be cause for reconsideration for [his] eligibility for a security clearance.” *Id.* The letter also informed him that he is responsible for accurately completing all personnel security questionnaires. *Id.*

The Individual testified that, regarding the matter of the September 2008 letter, he could only recall discussing his college loans with the investigator who conducted an interview in the context of the 2008 clearance process. Tr. at 35. The Individual indicated that the investigator expressed some concern at that time over whether he was “going to be paying that off.” *Id.* at 36–38. The Individual testified that he could not remember receiving the letter, as he allegedly received it approximately fifteen years ago, and he could not remember being told of any unlisted delinquent accounts. *Id.* at 36–39, 48. The Individual later testified that he does not remember exactly how he resolved the debts that were brought to his attention in the September 2008 letter. *Id.* at 39.

In the August 2022 QNSP, when asked if had any delinquent routine accounts in the last seven years, which included “any default[,] on any type of loan[,]” “bills or debts turned over to a collection agency[,]” or “any account . . . charged off[,]” the Individual indicated that he did not. Ex. 4 at 39; Tr. at 47. Accordingly, the Individual did not provide any information regarding the delinquent accounts totaling approximately \$37,310. *Id.* 41–42. In the October 2022 LOI, the Individual explained that he did “not intentionally provide false information[]” on his QNSP because he was under the impression that he was being asked to provide information pertaining to “bankruptcy and foreclosures[,]” a sentiment that was echoed in his testimony. Ex. 8 at 2; Tr. at 41, 47. In later testimony, he confirmed that at the time he completed the QNSP, he was aware that his mortgage had been delinquent within the past seven years. Tr. at 47–48.

² The Individual submitted evidence of the education, awards, certificates, and commendations he received in connection with his military service. Exs. A, C, G, I, J, L, N, O, P, T, U; Tr. at 30–32.

³ The Individual held a security clearance, issued by the Department of Defense, until his service ended in October 2018. Tr. at 18–20, 28–29.

During the ESI that was conducted in September 2022, the investigator asked the Individual about his financial circumstances and to describe them. Ex. 4 at 48; Ex. 6 at 1. In response to this question, the Individual disclosed that his spouse lost her job as a result of the COVID-19 pandemic, and he “volunteered [the fact] that his . . . mortgage had not been paid in about a year[.]” Ex. 4 at 48-49; Ex. 6 at 1–2. He told the investigator that he satisfied the financial obligations he could, and he intended to “correct this situation in the next few weeks[.]” as he was receiving a bonus of approximately \$20,000, his wife intended to return to employment, and he secured new employment that offered an increase in annual compensation. Ex. 4 at 49; Ex. 6 at 2. The investigator then confronted the Individual with four other delinquent accounts. Ex. 4 at 49; Ex. 6 at 2. According to a credit report obtained by the LSO in August 2022, the first account was delinquent in the amount of \$2,058, the second in the amount of \$1,456, the third in the amount of \$637, and the fourth in the amount of \$111. Ex. 4 at 78–79; Ex. 5 at 3–4. The Individual indicated that the delinquent account totaling \$2,058 was an account on which purchases had been made before his wife lost her job. Ex. 4 at 49. He told the Investigator that the outstanding debt in the amount of \$1,456 was an outstanding tuition balance and that he was “not aware of” the debt totaling \$637, indicating that he would investigate whether this amount was accurate. *Id.* Lastly, with regard to the debt totaling \$111, a medical bill, the Individual indicated that he was under the belief this debt had been satisfied. *Id.* The credit report also indicated that the Individual’s mortgage was past due in the amount of \$33,048. Ex. 5 at 4. At the hearing, the Individual testified that he first became aware of the aforementioned delinquent accounts, other than his mortgage, when he was interviewed by the investigator. Tr. at 63–64. In earlier testimony, however, the Individual also conceded that he had been aware of the debts totaling \$2,058 and \$1,456, as he was able to provide the investigator with information regarding these debts. *Id.* at 44–46. Again, the Individual maintained that he misread the question pertaining to outstanding delinquent accounts in the QNSP, and therefore, failed to answer the question correctly. *Id.* at 47.

During his hearing testimony, the Individual stated that he could not remember any specific statement that he made during the ESI and stated that he could “only just go off of what the investigator had written down.” *Id.* at 43. He later confirmed that the investigator broached the issue of the delinquent accounts with him but that he did not have a credit report with him at the time to adequately discuss the matter. *Id.* at 43–44.

At the time of the October 2022 LOI, the Individual was awaiting a bonus and severance pay from his previous employer to satisfy his outstanding debts. Ex. 8 at 2. He indicated in the October 2022 LOI that the debt totaling \$2,058 would be satisfied with the aforementioned bonus and severance and that the second debt totaling \$1,456 was being paid in installments “every month from [his] military retirement pay.”⁴ *Id.*; Tr. at 59–63. Regarding the amounts totaling \$634 and \$111, the

⁴ The Individual submitted a screenshot of his military retirement pay account. Exs. Z and AA. It indicates that the Individual is currently receiving a monthly amount of \$1,559. *Id.* From that amount, an amount of \$1,432.39 labeled as “VA waiver” is reduced every month. *Id.* This “VA waiver” amount does not appear to correlate to the outstanding obligation totaling \$1,456. *Id.* In the November 2022 LOI, the Individual stated that he did not have receipts for any of the payments made toward the debt approximating \$1,456, as this action is executed electronically. Ex. 10 at 2. The Individual did not provide any more information regarding this outstanding obligation, and at the hearing, he confirmed that he had not contacted the organization responsible for “garnishing” his military retirement payments to inquire about the matter further. Tr. at 68–69.

Individual indicated in the October LOI that he did not have any knowledge of these debts and would have to investigate the matter further. Ex. 8 at 2. The Individual further stated in the LOI that the amount of \$33,048, his outstanding home mortgage obligation, was “not 100% accurate and includes late charges[,]” and he further indicated that he intended to contact the mortgage company to establish a payment schedule. *Id.* Lastly, the Individual disclosed that he had a car loan that was delinquent in the amount of \$1,200 and that he would “have this paid to current upon receipt” of the bonus and severance pay he expected to receive. *Id.*

The Individual explained in the October 2022 LOI that he only recently began working again. Ex. 8 at 2. As a result, the Individual had to prioritize his financial obligations. *Id.* He explained that the amount he was making annually at his prior job was not enough to satisfy all of his financial obligations, and should he obtain his clearance and begin employment with the DOE Contractor, his increased income would ensure that his financial delinquencies would be a “thing of the past and will never occur again.” *Id.* at 2. In the attached PFS, the Individual listed his spouse’s net monthly income as a cashier as \$500 and his net monthly income as \$1,959.03 in veteran’s disability benefits. *Id.* at 4; Ex. S. He estimated that his monthly living expenses, like his utility bills and average monthly cost of groceries, totaled approximately \$3,598. Ex. 8 at 4. The Individual listed his car loan and mortgage separate from his monthly living expenses, indicating that these to expenses totaled \$1,910 per month. Ex. *Id.*

In the November 2022 LOI and in his testimony, the Individual explained that his previous, non-military employment ended because he “had reached the end of his employment contract” and that his last day was in October 2022.⁵ Ex. 10 at 1; Tr. at 17. According to his LOI, however, after his employment ended, he began receiving unemployment benefits,⁶ and at the time of the LOI, he had received the bonus and severance pay he was expecting, totaling \$17,500.⁷ Ex. 10 at 1. He testified that his current employment with the DOE Contractor began in January 2023. Tr. at 17. The Individual indicated in the LOI and at the hearing that he did not use the severance and bonus to satisfy his delinquent accounts, as the unemployment benefits were not sufficient to support his family. Ex. 10 at 1; Tr. at 75. At the time of the November 2022 LOI, he had not taken any action to investigate and resolve the debts in the amount of \$637 and \$111. Ex. 10 at 1.

Along with his request for a hearing, the Individual submitted a February 6, 2023, letter of third-party authorization, indicating that a third party (an attorney) had been permitted to discuss the mortgage on behalf of the individual and his wife. Ex. 3 at 5; Exs. E and F. In his testimony, the Individual confirmed that he hired the attorney to begin resolving the matter of his delinquent mortgage. Tr. at 49–51. The attorney has specifically been retained to refinance the loan, as the

⁵ The Individual testified that in the September-to-October time period, he was “finishing up [his] contract” with his previous, non-military employer. Tr. at 16. He then transferred over to the DOE Contractor and “started for the initial two weeks towards the end of [his previous] contract.” *Id.* This two-week period was followed by a 90-day period of unemployment, after which he began working for the DOE Contractor once more in a full-time position in early January 2023. *Id.*

⁶ The Individual testified that he began receiving biweekly unemployment benefits in the amount of \$500 from late October to early January. Tr. at 76.

⁷ The Individual testified that he received closer to \$14,000. Tr. at 74.

Individual had received a notice that foreclosure proceedings would begin.⁸ *Id.* at 50, 69–70, 72–74; Ex. Q. He confirmed that he had not made a mortgage payment in over a year. Tr. at 70.

The Individual also submitted a February 21, 2023, letter from a customer service manager at a credit services company stating that the Individual has “many inaccurate and potentially fraudulent items on [his] credit report[.]” Ex. 3 at 6; Ex. R. It further stated that they “are working diligently, filing disputes, official complaints, and identity theft reports where necessary, to ameliorate existing issues[.]” Ex. 3 at 6. The Individual testified that some of the delinquent accounts with which he was confronted during the ESI served as the impetus for seeking out a credit services company, as he could not identify the delinquent accounts. Tr. at 53. The Individual hired the company to dispute some of the items listed on his credit report and to make sure that all of his debts and obligations were reflected correctly therein. *Id.* at 53–57. At the hearing, the Individual maintained that he could not identify the debt totaling \$111 and testified that because the credit service company informed him of a discrepant amount owed for different obligations between three different credit reports, he was attempting to verify the accuracy of the debts totaling \$111, \$2,058, \$637 and \$1,456.⁹ *Id.* at 52–53, 56–59, 68, 71; Exs. X and Y.

The Individual testified that the previously delinquent car payment totaling approximately \$1,200 had been brought “up to date and paid up[.]” Tr. at 50–52; Ex. V. At the time of the hearing, the Individual’s monthly car payment totaled \$300. Tr. at 75.

The Individual testified to changes in the PFS he attached to the October 2022 LOI. At the time of the hearing, the Individual indicated that his wife’s income varied and that she is likely earning a little less than the amount he listed on the PFS. Tr. at 76–77. Further, his disability benefits increased by approximately \$200 every month, and the cost of routine expenses, which include groceries, utilities, car insurance, and gasoline, have increased approximately \$700 per month from the estimates he provided in the PFS. *Id.* at 78–81. He also testified that his wife did not receive unemployment benefits and that, prior to losing her position in 2020, his wife had been earning approximately “\$300 every two weeks.” Tr. at 82–83, 90.

Regarding the time it took for him to begin resolving the matter of his delinquent debts, the Individual testified that he did not approach the attorney or the credit service company until 2023 because he was not employed and receiving an income until January 2023. Tr. at 64–67.

V. Analysis

⁸ The Individual stated in his closing statement that his attorney intends to make sure that his refinanced mortgage payments are paid every month from his disability benefits. Tr. at 93.

⁹ The April 2023 letters from the credit services company that the Individual submitted into evidence indicate that the Individual “has potentially inaccurate item[s] on [his] credit report” and that they were “working diligently, filing disputes, and official complaints and identity theft reports where necessary, to ameliorate” the issue. Exs. X and Y. The debts they specifically identified in the letters were the outstanding debts of \$2,058, \$1,456, \$637, and \$1,200. *Id.* It should be noted that the debt totaling approximately \$1,200 is the same obligation that the Individual indicated he has resolved in that he is current on his payments. Ex. V; Tr. at 50–52. Further, the Individual did not submit a copy of his credit report or a letter from the credit service company indicating which charges were confirmed to be fraudulent and the specific actions taken to address the issue.

A. Guideline E

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline E include:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

A QNSP is an important tool in establishing whether an individual is fit to hold a security clearance. Any individual "seeking a security clearance should be well aware of the need for complete, honest and candid answers to DOE questions. Therefore[,] when completing a QNSP such an individual should err on the side of providing too much rather than too little information." *Personnel Security Hearing*, OHA Case No. TSO-0023 at 30-31 (2003).

During the hearing, the Individual was asked why he did not fully disclose his delinquent debts on the QNSP. The Individual explained his lack of disclosure by stating that he misread the question and thought the question pertained to bankruptcy. When asked other questions about the particulars

of his financial past, like whether he received the 2008 letter and what was discussed in the context of the 2008 clearance investigation, he simply stated that he could not remember. More importantly, the Individual only provided information regarding his delinquent mortgage payments when confronted by the investigator and later conceded that he knew of at least two other delinquent debts. Accordingly, I do not find the Individual's assertions that he misread or forgot information to be credible. As he indicated in his testimony, he previously held a clearance for years in the context of his prior employment, and at the very least, he understood that such disclosures are of great importance. The Individual's prior experience with the clearance process is also why I do not find his assertion that he misunderstood the question regarding disclosing loan defaults, collection debts, or charge off accounts to be credible, as he had been asked about his financial state in the context of that clearance process and advised to address and accurately report requested information. Further, even assuming that he did not know or could not remember that he had other outstanding obligations, he knew that he had fallen behind approximately one year on his mortgage payments, which is why he immediately disclosed the matter when the investigator asked about his financial state during the ESI. That information, at least, should have been reported when he completed his QNSP. Again, this information should have been disclosed prior to the Individual being confronted with it.

Turning to whether mitigating factors (a), (b), or (c) apply to this case, I have no evidence before me to indicate that the Individual disclosed the information that he omitted from his QNSP prior to being confronted by the investigator or that he withheld the information pursuant to advice of legal counsel or a person with professional responsibilities for advising or instructing him specifically concerning security processes. Further, the information pertained to thousands of dollars' worth of delinquent debts, and as any intentional failure to disclose information on a security form or to investigators is a serious concern, I cannot conclude that the offense was minor. As the Individual's omission of information took place throughout the clearance process, I cannot conclude that it was infrequent or took place under unique circumstances.

There is no evidence before me indicating that the Individual has acknowledged his behavior and has taken any steps to alleviate the stressors that contributed to his untrustworthy behavior or that he has taken any steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress. Accordingly, mitigating factors (d) and (e) are inapplicable. Finally, the allegations before me do not indicate, nor does the record reflect, that the information was from a source of questionable reliability or that the concerns were derived from the Individual's association with persons involved in criminal activities. Mitigating factors (f) and (g) are therefore inapplicable.

For the forgoing reasons, I cannot conclude that the Individual has mitigated the stated concerns under Guideline E.

B. Guideline F

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline F include:

- a) The behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- b) The conditions that resulted in the financial problem were largely beyond the person's control (*e.g.*, loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- c) The individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- d) The individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- e) The individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- f) The affluence resulted from a legal source of income; and
- g) The individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

During the ESI in September 2022, the Individual told the investigator that he was working to resolve his recent financial difficulties, which he asserted began in 2020. As of the time of the hearing, the Individual had retained legal counsel to begin the process of refinancing his home mortgage, engaged a credit service company to investigate and remedy what he testified were discrepancies in his credit report, and brought his car payment "current." However, notwithstanding these preliminary steps, the concerns stated in the SSC remained unresolved and unmitigated, and I cannot make a determination that the concerns stated in the SSC have been mitigated based on the Individual's assurances that they will be resolved at a future date.

The Individual indicated in his testimony that his financial difficulties began in 2020, as a result of the COVID-19 pandemic and his wife's job loss. While I understand these circumstances were arguably beyond the Individual's control, I cannot conclude that he behaved responsibly under the circumstances. In September 2022 ESI, the Individual disclosed that he had been behind on his mortgage for approximately one year. There is no evidence indicating that the Individual attempted to remedy this matter until February 2023. Further, although the Individual indicated that he was unaware of some of the debts with which he was confronted during the ESI, he was at least notified of them in September 2022, and again, there is no evidence indicating that he took any action to attempt to resolve the delinquencies until February 2023. Further, although the Individual stated in the October 2022 LOI that he had earmarked his bonus and severance pay from a previous

employer to satisfy his outstanding obligations, he later admitted that he had not used the funds to begin the process of paying his debts. Ex. 8 at 2; Ex. 10 at 1. Accordingly, I cannot conclude that the Individual mitigated the stated concerns under mitigating factor (b).

Further, although the Individual has engaged a credit services company, which submitted a letter indicating that they were investigating the matter of the discrepant delinquent obligations on the Individual's credit report, there is no indication a determination has been made regarding these alleged discrepancies or that any practical action has been taken to resolve the matter. And accordingly, there is no indication the matter is under control. Thus, I cannot conclude that the stated concerns have been mitigated pursuant to mitigating factor (c). Additionally, although the Individual has engaged a credit service company to dispute the debts, I have no documented proof to substantiate the basis of the dispute, only a conclusory statement from the credit services company that the Individual's credit report contains "many inaccurate and potentially fraudulent items" and that the company is working to dispute and resolve these matters. Ex. R. In fact, subsequent letters from the same company are less confident and state that the items are "potentially inaccurate." Exs. X and Y. Accordingly, I cannot conclude that the Individual has mitigated the concerns pursuant to factor (e).

The remaining mitigating factors at (a), (d), (f), and (g) are inapplicable to the case at hand. As the matter of the delinquent debts are ongoing, there is no indication that the issues outlined in the SSC happened under unusual circumstances, took place long ago, or were infrequent. Further, there is no indication that a payment plan has been established for the five delinquent debts listed above, and accordingly, there is no indication that the Individual is engaging in good faith efforts to repay the overdue creditors. Lastly, the stated concerns do not involve allegations of affluence or a failure to satisfy federal or state income taxes.

For the above-stated reasons, I cannot conclude that the Individual has mitigated the Guideline F concerns.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines E and F of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Notification Letter. Accordingly, the Individual has not demonstrated that granting his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should not be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Noorassa A. Rahimzadeh
Administrative Judge
Office of Hearings and Appeals